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Yuko Nishikawa

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FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

EXAMINER

TAYLOR, JOSHUA D

ART UNIT

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/806,713	Applicant(s) NISHIKAWA ET AL.	
	Examiner JOSHUA TAYLOR	Art Unit 2426	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5/14/2009</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is in response to an Appeal Brief entered July 17, 2009 for the patent application 10/806,713 filed on March 23, 2004.
2. The Final Office Action of April 24, 2009 is fully incorporated into this Office Action by reference.

Status of Claims

3. Claims 1-13 are pending.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-7 and 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable by Nakamura et al. (US Pub. No. 2003/0167466) in view of Ohkura et al. (Pat. No.: US 6,005,601).

Examiner's Note (EN): ¶ 10. below applies.

Regarding claim 1, Nakamura discloses **a method comprising: providing access to a plurality of characterizing descriptors for each of a plurality of discrete selectable items of audio/video content** (Nakamura, paragraphs [0063-0065] i.e., accepting instruction for display

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EPG data); **providing a program guide by simultaneously displaying a plurality of the characterizing descriptors for each of a plurality of the discrete selectable items using a browsing and selection interface that bears at least some of the characterizing descriptors and wherein three spatial dimensions for the browsing and selection interface are simultaneously displayed, such that the browsing and selection interface is depicted as a plurality of three dimensional objects** (Nakamura, Fig. 3, paragraphs [0025]-[0029], [0063]-[0064]). Nakamura discloses having multiple 3-dimensional cylindrical displays displaying program guide information, wherein the axis of the cylinders are vertical. However, Nakamura does not explicitly disclose **wherein each of the plurality of three dimensional objects corresponds to a different time and displays a plurality of characterizing descriptors corresponding to that time; responding to user input by scrolling a display of the plurality of the characterizing descriptors for each of a plurality of the discrete selectable items wherein the characterizing descriptors displayed on each of the plurality of three dimensional objects may be scrolled independently of the characterizing descriptors displayed on the other three dimensional objects.** However, if one were to turn the plurality of vertical cylinders of Nakamura's Fig. 15 on their side, as would have been an obvious matter of design choice to one of ordinary skill in the art at the time of the invention, and as is further taught by Ohkura (Figure 18), one would have a plurality of horizontal cylinders, and there would be a plurality of different times represented. From this standpoint, the only difference between Nakamura and Applicant's claimed invention is that each cylinder does not represent a different time period. However, by looking at Nakamura, Fig. 2, one can see that the channel columns are broken up into time segments. If, referring to Nakamura, Fig. 2, one were to follow

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the broken line that runs under A2, B1, C1, '6', D2, E1 and F1, it can be seen that this line, which can be seen in the same manner on the cylinder of Fig. 3, represents a cylinder denoting a time period. Combining this view of Nakamura with the teaching of Ohkura, which suggests an electronic program guide can be composed of several cylinders with horizontal axes, wherein each one of the cylinders can be rotated independently of the other cylinders (Figs. 3-13 and 18. col. 2, ln. 12 – col. 15, ln. 50, specifically col. 5, ln. 26 – col. 6, ln. 28), one of ordinary skill in the art at the time of the invention would have found it obvious to modify the vertical cylinders of Nakamura by turning them on their sides so as to be displayed as horizontal cylinders.

Furthermore, any problems arising from such a transition, such as the need to reformat the words and letters of the various cells that make up Nakamura's cylinders, could have been solved by one of ordinary skill in the art at the time of the invention using Ohkura's teaching from at least Figure 18. This would result in a plurality of horizontal cylinders, representing a plurality of channels, and a plurality of times, said times progressing from left to right, as seen if one turns Nakamura's Figure 15 ninety degrees counter-clockwise. From this point, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Nakamura to allow for different time periods to be designated a separate cylinder. The motivation for such a combination would be to provide the user with a method of scrolling through certain pieces of information, while maintaining the position of the rest of the program guide display (Ohkura, Figs. 9, 10(a-1) - 10(d-2), 11A - 11D, col. 5, ln. 26 – col. 6, ln. 28 and col. 9, ln. 1- col. 13, ln. 47).

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Regarding claim 2, **the method of claim 1** is rejected as stated above, and Nakamura further discloses **wherein each of the plurality of three dimensional objects corresponds to a three dimensional cylinder** (Fig. 15, paragraphs [0011], [0063]-[0064]).

Regarding claim 3, **the method of claim 1** is rejected as stated above, and Nakamura further discloses **wherein the plurality of discrete selectable items of audio/video content are embodied in a plurality of media** (paragraph [0110]).

Regarding claims 4, **the method of claim 1** is rejected as stated above, and Nakamura discloses **further comprising: responding to a remote control device by scrolling a display of the plurality of the characterizing descriptors for each of a plurality of the discrete selectable items** (paragraphs [0105]-[0106]).

Regarding claims 5, **the method of claim 4** is rejected as stated above, and Nakamura discloses **further comprising: responding to a remote control device by altering the display of the plurality of the characterizing descriptors for each of a plurality of the discrete selectable items on a page basis** (paragraphs [0105]-[0106]).

Regarding claims 6, **the method of claim 1** is rejected as stated above, and Nakamura discloses **further comprising: responding to a remote control device by signaling user selection of a particular one of the discrete selectable items of audio/video content** (paragraphs [0105]-[0106]).

Regarding claims 7, **the method of claim 6** is rejected as stated above, and Nakamura discloses **further comprising: sending a signal indicating user selection of the particular one of the plurality of discrete selectable items of audio/video content** (paragraphs [0105]-[0106]).

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Regarding claim 9, Nakamura discloses **an interactive program guide system comprising: characterizing descriptors for each of a plurality of discrete selectable items of audio/video content** (Nakamura, paragraphs [0063]-[0065] i.e., accepting instruction for display EPG data); **control circuitry that displays a plurality of the characterizing descriptors using a browsing and selection interface that bears at least some of the characterizing descriptors and wherein three spatial dimensions for the browsing and selection interface are simultaneously displayed** (Nakamura, paragraph [0008]), **such that the browsing and selection interface is depicted as a plurality of three dimensional objects** (Nakamura, Figs. 3 and 15, paragraphs [0025]-[0029], [0063]-[0064]). Nakamura discloses having multiple 3-dimensional cylindrical displays displaying program guide information, wherein the axis of the cylinders are vertical. However, Nakamura does not explicitly disclose **wherein each of the plurality of three dimensional objects corresponds to a different time and displays a plurality of characterizing descriptors corresponding to that time; and wherein the control circuitry is operably responsive to user input to scroll the display of the plurality of the characterizing descriptors, and wherein the characterizing descriptors displayed on each of the plurality of three dimensional objects may be scrolled independently of the characterizing descriptors displayed on the other three dimensional objects**. However, if one were to turn the plurality of vertical cylinders of Nakamura's Fig. 15 on their side, as would have been an obvious matter of design choice to one of ordinary skill in the art at the time of the invention, and as is further taught by Ohkura (Figure 18), one would have a plurality of horizontal cylinders, and there would be a plurality of different times represented. From this standpoint, the only difference between Nakamura and Applicant's claimed invention is that

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each cylinder does not represent a different time period. However, by looking at Nakamura, Fig. 2, one can see that the channel columns are broken up into time segments. If, referring to Nakamura, Fig. 2, one were to follow the broken line that runs under A2, B1, C1, '6', D2, E1 and F1, it can be seen that this line, which can be seen in the same manner on the cylinder of Fig. 3, represents a cylinder denoting a time period. Combining this view of Nakamura with the teaching of Ohkura, which suggests an electronic program guide can be composed of several cylinders with horizontal axes, wherein each one of the cylinders can be rotated independently of the other cylinders (Figs. 3-13 and 18. col. 2, ln. 12 – col. 15, ln. 50, specifically col. 5, ln. 26 – col. 6, ln. 28), one of ordinary skill in the art at the time of the invention would have found it obvious to modify the vertical cylinders of Nakamura by turning them on their sides so as to be displayed as horizontal cylinders. Furthermore, any problems arising from such a transition, such as the need to reformat the words and letters of the various cells that make up Nakamura's cylinders, could have been solved by one of ordinary skill in the art at the time of the invention using Ohkura's teaching from at least Figure 18. This would result in a plurality of horizontal cylinders, representing a plurality of channels, and a plurality of times, said times progressing from left to right, as seen if one turns Nakamura's Figure 15 ninety degrees counter-clockwise. From this point, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Nakamura to allow for different time periods to be designated a separate cylinder. The motivation for such a combination would be to provide the user with a method of scrolling through certain pieces of information, while maintaining the position of the rest of the program guide display (Ohkura, Figs. 9, 10(a-1) - 10(d-2), 11A - 11D, col. 5, ln. 26 – col. 6, ln. 28 and col. 9, ln. 1- col. 13, ln. 47).

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Regarding claim 10, **the interactive program guide system of claim 9** is rejected as stated above, and Nakamura further discloses **wherein each of the plurality of three dimensional objects corresponds to a three dimensional cylinder** (Fig. 15, paragraphs [0025]-[0029], [0063]-[0064]).

Regarding claim 11, **the interactive program guide system of claim 9** is rejected as stated above, and Nakamura further discloses **wherein the plurality of discrete selectable items of audio/video content are embodied in a plurality of media** (Fig. 3, paragraphs [0025]-[0029], [0063]-[0064]).

Regarding claim 12, **the interactive program guide system of claim 9** is rejected as stated above, and Nakamura discloses **further comprising: a remote control device; and wherein the control circuitry is operably responsive to the remote control device** (paragraphs [0006]-[0010] and [0105]-[0106]).

5. Claims 8 and 13 rejected under 35 U.S.C. 103(a) as being unpatentable by Nakamura et al. (US Pub. No. 2003/0167466) in view of Ohkura et al. (Pat. No.: US 6,005,601) as applied to claims 1 and 9 above respectively, and further in view of Sai et al. (US Pat. 6,822,661).

Regarding claim 8, the combined teachings of Nakamura and Ohkura disclose the method of claim 1, but do not disclose further comprising **using a jog dial to do at least one of: scrolling a display of the plurality of the characterizing descriptors for each of a plurality of the discrete selectable items; paging a display of the plurality of the characterizing descriptors for each of a plurality of the discrete selectable items.** However, Sai et al does

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(column 5, lines 11-14). Sai et al. teach that a jog dial could be used in place of directional buttons. Therefore, one skilled in the art would have found it obvious to use a jog dial as an alternative to directional buttons.

Claim 13 is rejected on the same grounds as claim 8 above.

Response to Arguments

6. Applicant's arguments with respect to claims 1-13 have been considered but are moot in view of the new grounds of rejection. While Examiner does not concede that the combination of references in the Final Rejection of April 24, 2009 does not teach Applicant's invention, Examiner believes that the art presented in the instant rejection is more appropriate to obviate Applicant's claimed invention.

Examination Considerations

7. The claims and only the claims form the metes and bounds of the invention. "Office personnel are to give the claims their broadest reasonable interpretation in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim are not read into the claim. *In re Prater*, 415 F.2d, 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969)" (MPEP p 2100-8, c 2, l 45-48; p 2100-9, c 1, l 1-4). The Examiner has full latitude to interpret each claim in the broadest reasonable sense. Examiner will reference prior art using terminology familiar to one

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of ordinary skill in the art. Such an approach is broad in concept and can be either explicit or implicit in meaning.

8. Examiner's Notes are provided with the cited references to prior art to assist the applicant to better understand the nature of the prior art, application of such prior art and, as appropriate, to further indicate other prior art that maybe applied in other office actions. Such comments are entirely consistent with the intent and spirit of compact prosecution. However, and unless 5botherwise stated, the Examiner's Notes are not prior art but a link to prior art that one of ordinary skill in the art would find inherently appropriate.

9. Unless otherwise annotated, Examiner's statements are to be interpreted in reference to that of one of ordinary skill in the art. Statements made in reference to the condition of the disclosure constitute, on the face of it, the basis and such would be obvious to one of ordinary skill in the art, establishing thereby an inherent prima facie statement.

10. Examiner's Opinion: ¶¶ 7.-9. apply. The Examiner has full latitude to interpret each claim in the broadest reasonable sense.

Conclusion

11. The prior art of record and not relied upon is considered pertinent to applicant's disclosure.

- Cove et al., Pat. No.: US 6,411,337

12. Claims 1-13 are rejected.

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13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSHUA TAYLOR whose telephone number is (571) 270-3755.

The examiner can normally be reached on 8am-5pm, M-F, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hirl can be reached on (571) 272-3685. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Josh Taylor/
Examiner, Art Unit 2426

/Joseph P. Hirl/
Supervisory Patent Examiner, Art Unit 2426
November 13, 2009